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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,553	02/16/2001	Ming-Ming Zhou	2459-1-003 CIP	3124
23565	7590	12/13/2005	EXAMINER	
KLAUBER & JACKSON 411 HACKENSACK AVENUE HACKENSACK, NJ 07601			LUCAS, ZACHARIAH	
			ART UNIT	PAPER NUMBER
			1648	
DATE MAILED: 12/13/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/784,553	Applicant(s) ZHOU ET AL.	
	Examiner Zachariah Lucas	Art Unit 1648	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 5-8.
 Claim(s) withdrawn from consideration: 1-4 and 9-36.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Continuation of 3. NOTE: The claims as presented add new limitations requiring that the isolated peptides consist of the indicated ZA loop, and that the acetylated lysines are part of a peptide or protein. Neither of these limitations was previously presented in the claims, and thus require further search and examination.

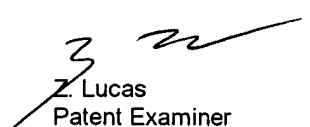
Continuation of 11. does NOT place the application in condition for allowance because: The Applicant traverses the enablement rejection regarding the scope of bromodomains on the grounds that a number of bromodomain containing proteins, and proteins with which they interact, are known in the art. However, there is no demonstration that it is known what diseases or disorders such proteins may be involved with, or any identification of specific uses to which the each of claimed peptides may be put. Further, the pending claims require that the peptides bind to acetylated lysines, not proteins or polypeptides. The limitation regarding the binding of bromodomains to polypeptides or proteins has not been entered and is therefore not considered. With respect to RING3, while there is no requirement that the Applicant know or understand how or why an invention works, the Applicant is required to teach those in the art how to use the invention under 35 U.S.C. 112 first paragraph (enablement). In the present case, the application fails to teach those in the art how to use the claimed peptides because the application does not teach to what specific functions that each of the peptides, or the inhibitors that may be identified therewith, may be used to perform. As the application does not teach how to use the peptide or inhibitors thereof, the application is not enabled therefore. The fact that the application provides suggestions or teachings regarding certain peptides does not demonstrate possession for the full scope of the peptides claimed as there is no demonstration that teachings regarding the functions and uses of one peptide would be common to all of the claimed peptides. This is particularly true in view of the teachings in the art and the application demonstrating that different peptides or bromodomain containing proteins perform different functions and interact with different ligands. The remaining arguments with respect to the enablement rejections are based on amendments to the claims that have not been entered. These arguments are therefore not considered.


With respect of the Written description rejections, the Applicant again argues that there is support for the involvement of bromodomains in HIV infection in the application. However, as was previously indicated, the application provides support for the involvement of only a specific bromodomain in HIV, and provides no demonstration that any peptide falling within the scope of the formula of SEQ ID NO: 3 is associated with HIV. The remainder of the arguments have either been previously considered, or are based upon the non-entered amendments to the claims.

The Declaration of Dr. Zhou has been considered. The declaration indicates that the art provides teachings as the ligands and potential biological activities of various bromodomain containing proteins. However, while the art may provide specific teachings as to certain ligand to certain bromodomains, and provide suggestions as to the biological activity of others, the declaration does not demonstrate that the Applicant has demonstrated how to use any peptide comprising a ZA loop of a bromodomain in that the activities and ligands of all such proteins are not known. Further, the identification of ligands to a bromodomain does not demonstrate that those in the art would be able to use the bromodomain peptide absent teachings as to how the peptides may be used (e.g. what specific disorder or disease they may be used to treat, whether they induce or inhibit certain reactions known to be associated with disease conditions, etc.). The teachings of the application are not supportive to the full scope of the claimed peptides. Thus, the declaration of Dr. Zhou is not found persuasive as it does not demonstrate that the application is enabling for the full scope of the claims, or demonstrate possession of the full scope of the claimed inventions.

The traversals of each of the art rejections are based on amendments to the claims that have not been entered. The rejections are therefore maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is 571-272-0905. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 571-272-0902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Z. Lucas
Patent Examiner


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